

CRS Issue Brief for Congress

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Transportation Issues in the 106th Congress

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Transportation Issues in the 106th Congress

SUMMARY

This issue brief identifies some of the major transportation issues facing the 106th Congress. Current issues include:

Transportation Budgeting. Under the Transportation Equity Act for the 21st Century (TEA21), spending for highway programs is now linked directly to annual revenue collections for the highway trust fund. In addition, the recently enacted reauthorization of federal aviation programs, FAIR21, provides a so-called funding guarantee for FAA programs.

DOT Appropriations for FY2001 are proceeding with the House Subcommittee on Transportation proposing significant increases.

The Airport Improvement Program has been authorized through FY2003 with large increases for airport grants.

FAA's Contract Tower Program. The DOT Inspector General report is favorable, but further expansion of the program is uncertain.

European Hushkit Dispute. A possible ban on newly hushkitted aircraft into the European fleet threatens U.S. retaliation.

Airline Consumer Protection issues are under study by the DOT Inspector General.

TEA21 Traffic Safety Grants. Interest centers on how effectively agencies are implementing TEA21 traffic safety grant programs.

Oversight of the Environmental Provisions of TEA21. Congress is interested in how the roughly \$12.5 billion, 6-year TEA21 set aside for environmental impacts of surface transportation will be spent.

Federal Motor Carrier Safety Program. Congress has passed legislation (H.R. 3419) to establish the Federal Motor Carrier Safety Administration to assume the motor carrier safety responsibilities previously conducted by the Office of Motor Carrier Safety within DOT.

Reauthorization of the Surface Transportation Board. A major issue is shipper interest in greater rail-to-rail competition.

Rail Safety Reauthorization. Various legislative options are being discussed for reauthorizing the Federal Railroad Administration safety program.

Harbor Maintenance User Fees proposed by the Administration are unpopular with maritime groups who prefer using general revenues for harbor maintenance and port dredging.

The Domestic Cruise Ship is facing calls from some Members for more international competition.

Coast Guard Reauthorization. Major issues include replacing aging vessels and addressing expanded operational responsibilities.

Antitrust Exemption for Ocean Carriers. Should ocean carriers remain exempt from U.S. antitrust law?

NTSB Reauthorization legislation has passed the House and is pending Senate action.

MOST RECENT DEVELOPMENTS

On May 8, 2000, the Transportation Subcommittee of the House Committee on Appropriations completed its markup of the FY2001 Department of Transportation (DOT) appropriation bill. The mark provides a total of \$55.236 billion in transportation spending and includes large increase for most agencies, some by double digits. The mark is \$5.2 billion more than was appropriated last year, and \$600 million more than the Administration's request. Full committee markup could occur by May 18; the Senate Appropriations Committee markup is scheduled for June 8.

On April 5, 2000, the 3-year, \$40 billion Federal Aviation Administration (FAA) reauthorization bill (H.R. 1000) was enacted. P.L. 106-181, the Wendell H. Ford Aviation Investment and Reform Act, promises a \$10 billion increase in funding for the FAA over 3 years and makes changes in aviation policy. Of the total \$40 billion authorized for FY2001 - FY2003, \$33 billion is "guaranteed" from the Aviation Trust Fund and \$6.7 billion will be drawn from the general fund. The general framework calls for FAA's Airport Improvement Program (AIP) and facilities and equipment (F&E) accounts to be funded at the authorized levels before allocating any Trust Fund revenue to the operations and research accounts, raising concerns that funding for these accounts may suffer. The Act increases from \$3 to \$4.50 the maximum passenger facility charge airports can impose on each boarding passenger, and allows 24 additional arrivals and departures from Ronald Reagan Washington National Airport each day.

On March 29, 2000, the FY2000 emergency supplemental appropriations bill (H.R. 3908) passed the House. The bill includes \$600 million in emergency highway funds and \$25 million for the National Transportation Safety Board for emergency expenses resulting from the Egypt Air and Alaska Air crash investigations. Action has been delayed in the Senate. Should the bill not pass, the emergency items it deals with may have to be addressed in the regular appropriation bill.

On February 8, 2000, the Administration submitted a \$54.933 billion FY2001 DOT budget request, up 9% from the FY2000 appropriation. The Administration wants to apply a new formula to reallocate over \$700 million of the \$3.05 billion Revenue Enhanced Budget Authority (RABA) in extra gas tax Highway Trust Fund revenues and to raise \$1 billion of the FAA's proposed budget from new, unspecified user fees. These plans are controversial and could trigger a budget battle.

BACKGROUND AND ANALYSIS

Introduction

This issue brief provides an overview of key issues on the transportation agenda of the 106th Congress. The issues are organized under the headings of budget, aviation, surface transportation, maritime, and other, with the author of each issue identified. Relevant Congressional Research Service (CRS) reports are cited in the text. Consult the CRS Home

Page [<http://lcweb.loc.gov/crs/>] or the *Guide to CRS Products*, or call CRS on (202) 707-5700 to obtain the cited reports or identify materials in other areas.

Table 1. Major Transportation Legislation of the 105th Congress

<p><i>Budget</i></p> <p>P.L. 105-277, Omnibus Consolidated Appropriations Act for FY1999. Makes appropriations for DOT and related agencies for the fiscal year ending September 30, 1999; extends FAA's Airport Improvement Program for 6 months; requires major airlines forming joint ventures to notify DOT prior to action; requires DOT to do further studies if it finalizes proposed guidelines on competitive practices in the airline industry; requires the National Research Council to update its 1991 study on airline competition; extends the War Risk Insurance program to March 31, 1999; provides over \$450 million to the U.S. Coast Guard over 3 years to expand certain drug interdiction activities; and authorizes \$645 million for the U.S. Coast Guard to purchase equipment for drug interdiction operations.</p>
<p><i>Aviation</i></p> <p>P.L. 105-142, makes clarifications to the Pilot Records Improvement Act of 1996.</p> <p>P.L. 105-148, addresses the needs of families of passengers involved in aircraft accidents involving foreign air carriers by making certain requirements of the National Transportation Safety Board and individual foreign air carriers.</p> <p>P.L. 105-170, Aviation Medical Assistance Act of 1998. In consideration of a requirement for automatic external defibrillators to be carried on aircraft operated by air carriers, and for other purposes.</p> <p>H.R. 4057, Airport Improvement Program Reauthorization Act of 1998. Reauthorizes for one year the Airport Improvement Program and the FAA's Operations and Facilities Equipment accounts, and for other purposes. Passed the House August 4, 1998. Conferees not appointed.</p> <p>S. 2279, National Air Transportation System Improvement Act of 1998. Reauthorizes the Airport Improvement Program and FAA's Operations and Facilities and Equipment accounts for 2 years, and for other purposes. Senate passed H.R. 4057 September 24, 1998, after substituting the text of S. 2279. Conferees appointed.</p>
<p><i>Surface Transportation</i></p> <p>P.L. 105-130, Surface Transportation Extension Act of 1997. Provides a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991.</p> <p>P.L. 105-178, Transportation Equity Act for the 21st Century (TEA 21). Authorizes funds for federal-aid highways, highway safety programs, and transit programs, and for other purposes.</p> <p>P.L. 105-134, Amtrak Reform and Accountability Act of 1997. Reforms the statutes relating to Amtrak, authorizes appropriations for Amtrak, and for other purposes.</p> <p>P.L. 105-206. To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes. Title IX: Technical Corrections to Transportation Equity Act for the 21st Century.</p>

U.S. Coast Guard

P.L. 105-383, Coast Guard Authorization Act of 1998. Authorizes funding for the fiscal years 1998 and 1999, and for other purposes.

Budget

Transportation Budgeting: Impacts of the Transportation Equity Act for the 21st Century (TEA21)

The Transportation Equity Act for the 21st Century (P.L. 105-178) (TEA21) changed the relationship between the highway trust fund and the federal budget process. Spending for highway programs is now linked directly to annual revenue collections for the highway trust fund. Core highway and mass transit program funding has been given special status in the discretionary portion of the federal budget by virtue of the creation of two new budget categories. The Act creates a virtual “firewall” around highway and mass transportation spending programs. That is, the levels of funding enunciated in the Act are described as a “transportation discretionary spending guarantee.”

The total TEA21 authorization is about 40% more than what had been provided in the previous 6-year program authorization, ISTEA (Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240). Of the total TEA21 authorization, \$198.0 billion is guaranteed, that is, these funds are not subject to reduction as part of the annual budget/appropriations process. The funding guarantees are set up in a way that makes it difficult for funding levels to be altered as part of the annual budget/appropriations process.

The change in budget treatment of the highway trust fund has implications for spending not only on highways and mass transit, but may have an effect on the availability of annual funding for other transportation and discretionary budget programs. Without significant increases in funds for the transportation component of the budget, any TEA21 linked spending increase could require a concomitant reduction in spending for activities such as the Coast Guard and Amtrak. For more information, see CRS Report 98-749E, *The Transportation Equity Act for the 21st Century (TEA21) and the Federal Budget*. (CRS contact: John Fischer.)

Transportation Budgeting: Impacts of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21 or AIR21)

FAIR21 (P.L. 106-181, signed April 5, 2000) provides a so-called guarantee for FAA program spending. The guarantee for aviation spending, however, is significantly different from that provided by TEA21. Instead of creating new budget categories, the FAIR21 guarantee rests on adoption of two point-of-order rules for the House and the Senate. The first point-of-order prevents Congress from considering any legislation that does not spend all of the “total budget resources” as defined by the Act, for aviation purposes. Total budget resources for the purposes of the Act are essentially the revenues and interest accruing to the aviation trust fund. The second point of order prevents any spending for FAA operations and

maintenance (O&M) or Research, Engineering and Development (RE&D), unless the Airport Improvement Program (AIP) and the Facilities and Equipment (F&E) portions of the FAA account are funded at their fully authorized levels.

Almost all observers view the FAIR21 guarantees as being somewhat weaker than those provided by TEA21. Congress can, and sometimes does, waive points-of-order during consideration of legislation. In addition, there is a sense that appropriators might still have some latitude to make significant changes to FAA O&M funding which is dependant on both trust fund and general fund contributions. For FY2001 the supporters of FAIR21 have the assurances of House leadership that no point-of-order waivers will be considered. Similar assurances were not provided by Senate leadership.

Supporters of FAIR21 believe it requires significant new spending on aviation programs. And for at least the FY2001 appropriations cycle this is likely to be the case. Enactment of FAIR21 means that transportation appropriators have total control over spending for the Coast Guard, the Federal Railroad Administration (including Amtrak), and a number of smaller DOT agencies. All of these agencies are concerned about their funding prospects especially if overall domestic discretionary caps are not raised. **(CRS contact: John Fischer.)**

Department of Transportation Appropriations

Appropriations for the Department of Transportation (DOT) (Function 400 in the federal budget) provide funding for a variety of programs that include regulatory, safety, research, and construction activities.

Money for DOT programs comes from a variety of sources, but predominately from highway fuel taxes, which are credited to the highway trust fund. In turn, the trust fund supports two accounts, the federal aid highway account, and the mass transit account. Aviation programs are also supported, in part, by fuel taxes but rely more heavily on user fees, such as the ticket tax. Annual appropriations (i.e., non-trust fund monies) also provide funding for DOT.

For FY2001, the Administration is proposing a total of nearly \$55 billion for DOT, an increase of over 9% from the enacted level for FY2000. Large gainers include the: Federal Railroad Administration (60%); Office of the Secretary (45%); National Highway Traffic Safety Administration (36%); Federal Aviation Administration (12%); and the United States Coast Guard (12%).

At its mark-up of May 8, 2000, the House Appropriations Subcommittee on Transportation recommended a total of just over \$55 billion in its DOT and related agencies appropriations legislation. With the exception of the Federal Railroad Administration, all of the major agencies were recommended for increases. The Subcommittee recommendation fulfills both the TEA21 and the FAIR21 spending "guarantees" without significantly cutting the remaining agencies and without violating the spending ceiling set in the FY2001 budget resolution (H.Con.Res. 290, H.Rept. 106-577).

Table 2 shows the Administration's actual budget amounts for FY1999, estimated amounts for FY2000, the Administration requests for DOT programs during FY 2001, and the House Appropriations Subcommittee recommendations for FY2001. The FY2000 figures

are adjusted for a 0.38% rescission. However, some reductions are too small to be reflected in the table.

Table 2. Department of Transportation Appropriations
(for selected agencies, in millions)

Agency	Actual FY 1999	Enacted FY2000	Requested FY2001	House Sub. Com. Mark
Federal Highway Administration	26,823	28,802	30,357	30,701
Federal Aviation Administration	9,754	9,997	11,222	12,006
Federal Transit Administration	5,390	5,785	6,321	5,271
United States Coast Guard	4,484	4,022	4,609	4,617
Federal Railroad Administration	778	735	1,056	689
National Highway Traffic Safety Administration	361	368	499	395
Office of the Secretary	81	76	88	78
National Transportation Safety Board	57	57	63	63
Office of the Inspector General	44	45	48	48
Surface Transportation Board	16	17	17	17

Figures in **Table 2** are drawn from tables provided by the House Committee on Appropriations. For additional information, see CRS Report RL30508, *Appropriations for FY2001: Department of Transportation and Related Agencies*.

The April 5 enactment of FAA reauthorization (P.L. 106-181) will significantly change the agency's spending level for FY2001. The capital portions of the FAA budget (Airport Improvement Program(AIP) and Facilities and Equipment budgets (F&E)) are "guaranteed," leaving the Operations and Maintenance (O&M) portion of the FAA budget (mostly for air traffic control) and Research, Development and Demonstration (RD&D) vulnerable to reduction during the appropriations process. If funded fully at the authorized level, the FAA budget for FY2001 would be roughly \$12.7 billion. The House Appropriations Subcommittee on Transportation mark fully funds AIP and F&E without major cuts in the O&M budget. (CRS contact: Bob Kirk)

Aviation

FAA's Airport Improvement Program (AIP)

The Airport Improvement Program (AIP) provides federal grants for airport development and planning. AIP grants are usually spent on capital projects that support airport operations including runways, taxiways, aprons, and noise abatement.

The enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21) (P.L. 106-181), was the culmination of two years of legislative effort to pass a multi-year FAA reauthorization bill. The length of the effort was a reflection of the difficult issues faced. Major issues that had to be resolved included the treatment of the Airport and Airway Trust Fund (hereafter referred to as the Aviation Trust Fund), raising the ceiling on the passenger facility charge (PFC), and the amounts to be spent and their distribution.

FAIR21 includes language that provides a so-called “guarantee” that all of each year’s receipts and interest credited to the trust fund will be made available annually for aviation purposes. The guarantee is enforced by changes made in House and Senate point of order rules. One rule makes it out-of-order to consider legislation that does not spend all trust fund revenues for aviation purposes. The second rule makes it out-of-order to consider legislation for funding FAA’s Operations or Research, Engineering and Development budgets if AIP and the Facilities and Equipment budgets are funded below authorized levels.

Both airport and airline interests have called for increases in AIP, but they disagreed on the amount of capital spending needed. In 1996, airport interests estimated that \$10 billion would be needed annually, from all sources, while airline interests estimated that about \$4 billion per year would be enough. In the end, FAIR21 substantially increases the federal support for airport capital spending. From a funding level of approximately \$1.9 billion for FY2000, AIP’s authorization increases funding by nearly 70% to \$3.2 billion for FY2001, \$3.3 billion for FY2002, and \$3.4 billion for FY2003. Within the context of these increases, the formula funding and minimums for primary airports are doubled starting in FY2001. The state apportionment for general aviation airports is increased from 18.5% to 20%. The noise set-aside is increased from 31% to 34% of discretionary funding and a reliever airport discretionary set-aside of 0.66% is established.

Raising the PFC cap was one of the most contentious policy issues related to the AIP. Meant to provide a source of funds that would complement AIP grants, the PFC is a local tax on each boarding passenger that may be levied by an airport with FAA approval. Airports had been promoting raising the PFC ceiling above its original \$3 ceiling. Most airlines opposed raising the fee. The Senate version of the bill would have left the PFC ceiling at \$3, while the House version of H.R. 1000 would have raised the ceiling to \$6. The enacted bill (P.L. 106-181) split the difference, setting the ceiling at \$4.50, but also imposed special conditions on PFCs above the \$3 level such as requiring large and medium hub airports to file competition plans with the FAA and to give back 75% of their AIP formula grants. The combination of a nearly 70% increase in AIP and a 50% increase in the PFC cap should lead to a significant increase in airport construction and improvement activity through FY2003.

The FY2000 DOT Appropriations Act, P.L. 106-69, provides \$1.95 billion for AIP the same as was provided for FY1999. In a later development, pursuant to a government-wide rescission required by P.L. 106-113, DOT reduced this funding level by \$54.4 million. For FY2001, the Administration again proposed \$1.95 billion for AIP. However, at its May 8, 2000, mark-up the House Appropriations Subcommittee on Transportation recommended funding AIP at the fully authorized FAIR21 level of \$3.2 billion. For more information on AIP, see CRS Issue Brief IB10026, *Airport Improvement Program*, and also CRS Report RL30096, *Airport Improvement Program Reauthorization Legislation in the 106th Congress*. (CRS contact: Bob Kirk.)

FAA's Contract Tower Program

The Federal Aviation Administration (FAA) began contracting for air traffic control services in 1982. The program was initially limited to small municipal airports with no FAA staffing. To save costs, the program was expanded in 1994 to Level I FAA-operated towers. Level I towers have the lowest level of activity of five designated levels; are not radar equipped; and are limited to daytime, visual flight rule (VFR) traffic. By October 1, 1999, the FAA had converted all of its Level I towers to contract operation, bringing the total number of towers in the program to 187.

The program has been successful in providing air traffic services to low activity airports at lower costs than the agency could otherwise provide. Contracting saves the agency about \$250,000 per tower in annual operating costs while providing a level of service and safety comparable to FAA-operated towers. In light of the program's success, interest has grown in expanding the program to the agency's Level II and III, non-radar, VFR towers. A total of 71 towers employing about 960 controllers could be affected, with a potential for greater average costs savings due to the greater number of FAA staff at these facilities.

The National Air Traffic Controllers Association (NATCA), which represents FAA's air traffic control work force, opposes the contracting out of air traffic control services for safety and work force reasons. While it was unable to stop the Level I conversions, it has mounted a new effort to stop conversions beyond Level I. NATCA's position was boosted by a draft FAA study (September 1999) that concluded that further expansion of the program would not be cost effective. FAA's negative report, coupled with the NATCA protests, prompted Congress to include language in the FY2000 DOT Appropriations Act (P.L. 106-69) which effectively put the program on hold but also directed the DOT Inspector General to conduct an independent review of the feasibility and benefits of expansion. The IG delivered a report on April 12, 2000, critical of the FAA draft study and making a case for further expansion. Whether the program will be expanded beyond Level I tower remains uncertain, however. The options for Congress seem to be: (1) wait for a revised, possibly more favorable, FAA study; (2) push expansion again in FY2001 DOT appropriations legislation; or (3) keep the program on hold, which is the NATCA position. Because of the sensitive safety and work force issues involved, a legislative mandate to expand the program is unlikely. For additional information, see CRS Report RS20475, *FAA's Contract Tower Program*. (CRS contact: Glen Moore.)

The European Union Hushkit Dispute

Early in 1999 the European Parliament adopted legislation that banned the introduction of new hushkitted aircraft into European airline fleets beginning April 1, 1999. ("Hushkits" consist of jet engine modifications designed to bring older, noisy engines into compliance with current noise standards.) Beginning in April 2002, hushkitted non-European aircraft would be banned from operating within the European Union (EU) unless they had already been operating in April 1999. This legislation responds to what the European Parliament believes is a growing concern about noise levels around airports throughout the EU. This legislation required the approval of EU Transport Ministers prior to implementation. On March 29, 1999, the Ministers extended the deadline to April 29, 1999, to allow the possibility of further discussion with the United States. The EU did adopt the rule on April 29, 1999. Implementation of the rule was delayed, however, until May 4, 2000. In making this decision

the EU agreed to a U.S. proposal to discuss the possibility of negotiating a more stringent international noise classification system during the next year. In March 2000 the United States filed a memorial with the International Civil Aviation Organization (ICAO) asking it to rule on the EU's proposed policy. The EU has since suggested that the U.S. action forces it implement the rule.

The United States is opposed to the EU hushkit rules. The United States believes that the EU is creating an aircraft noise regulatory framework that is at odds with international rules on noise reduction agreed to by the ICAO. As written by the EU, its legislation primarily applies to aircraft and aircraft engines produced in the United States. In addition, all aircraft engine hushkit producers are U.S. firms. As a result, the United States believes the legislation is discriminatory and could cause serious economic damage to U.S. firms. The United States has suggested that this issue could end up before the World Trade Organization (WTO), especially if the ICAO complaint fails to bring satisfactory results.

Many Members of Congress are in support of the U.S. position on this issue. On March 3, 1999, the House passed H.R. 661, a bill "to direct the Secretary of Transportation to prohibit the commercial operation of supersonic transport category aircraft that do not comply with stage 3 noise levels if the European Union adopts certain aircraft noise regulations." The only aircraft that fits this definition is the Concorde, and its only regularly scheduled routes are between New York and London, and New York and Paris. The bill is viewed by its supporters as a way to retaliate for the EU legislation. A similar bill, S. 405, has been introduced in the Senate but not considered.

On September 23, 1999, the House Committee on Transportation and Infrastructure marked up a resolution (H.Con.Res. 187) that calls on the Clinton Administration to use "all reasonable means" to preclude EU implementation of its hushkit ban. The Senate has approved a similar resolution as part of its version of the FY2000 Commerce, Justice, and State Appropriation (S. 1217, Section 212). The resolution is supported by the U.S. Aerospace Industries Association (AIA), but is opposed by the Clinton Administration. Further legislative action is unlikely until the EU actually imposes its hushkit restrictions. For more information, see CRS Report RL30547, *Aircraft Hushkits: Noise and International Trade*. (CRS contact: John Fischer.)

Airline Consumer Protection Legislation

Airline passenger complaints about customer service and air carrier business practices have led to growing concerns that have been reflected not only in press reports but also in legislation introduced during the 106th Congress. To mitigate the perceived need for legislation, the Air Transport Association (ATA), which represents the major air carriers, announced on June 17, 1999, that each of the major air carriers would develop voluntary "customer service plans" that would include 12 "customer service commitments." Among these 12 are commitments to offer the lowest fare available; to notify customers of known delays, cancellations and diversions; to handle "bumped" passengers with fairness and consistency; and to meet customers' essential needs during long on-aircraft delays.

Although some members of Congress supported giving the ATA plan a chance, others have voiced skepticism of the effectiveness of voluntary industry commitments. During floor debate in the Senate on both the DOT appropriations bill (H.R. 2084) and on FAA

reauthorization (H.R. 1000, as amended by S. 82), airline passenger consumer protection issues emerged in the form of a number of amendments to the two bills. In the FY2000 DOT Appropriations Act (P.L. 106-69) language was inserted requiring the DOT Office of the Inspector General (OIG) to investigate whether domestic and foreign air carriers are engaging in “unfair or deceptive practices” and “unfair methods of competition” (pursuant to 49 U.S.C. section 41712) when they sell tickets on flights that are already overbooked or offer different low fares through different media (e.g. telephone or internet). The OIG is also required to report, not later than June 15, 2000, on the extent that barriers exist to consumer access to comparative price and service information from independent sources (such as travel agents) on the purchase of airline tickets. In addition, the FY2000 DOT Act also requires the OIG to report on the extent to which air carriers deny travel to airline consumers with non-refundable tickets from one carrier to another. Finally, the Act expresses the sense of the Senate that the penalty for involuntary “bumping” of passengers should be doubled.

The recently enacted FAA reauthorization act (P.L. 106-181) also includes a number of consumer provisions. One requires more detailed reporting of the causes of delays and cancellations. Another requires the OIG to monitor the airline industry’s implementation of voluntary customer service plans and review airline contracts of carriage for implementing language. The maximum civil penalty for violating aviation consumer protection laws is increased to \$2,500 and funding is provided for enforcement of airline consumer protections. The Act also establishes a National Commission to Ensure Consumer Information and Choice in the airline industry, a provision supported by travel agents. **(CRS contact: Bob Kirk.)**

Surface Transportation

Oversight of the Traffic Safety Grant Provisions of TEA21

The Transportation Equity Act for the 21st Century (TEA21) (P.L. 105-178) authorizes funding for a variety of grant programs conducted by the states to improve traffic safety. The statute reauthorizes two existing grant programs — the Section 402 and Section 410 programs — with some modifications. The Section 402 program provides funds to each of the states to conduct innovative traffic safety programs. The Section 410 program encourages states to strengthen their laws and programs dealing with drunk driving. The statute also authorizes four new grant programs with contract authority: the Section 163 program, which is intended to encourage a state to adopt and enforce a law which makes it illegal to operate a vehicle with a blood alcohol concentration (BAC) of 0.08% or higher; the Section 405 program, which seeks to promote a variety of occupant protection programs and state laws; the Section 157 program, which is designed to increase seat belt use rates; and the Section 411 program, which provides monies to improve the timeliness, accuracy, completeness, uniformity, and accessibility of state crash and related highway data.

Various committees of the 106th Congress are overseeing the implementation of the TEA21 traffic safety grant programs. The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) have issued regulations to implement each of the new grant programs established by TEA21. Policy issues and key questions associated with the grant programs include: Is the Section 163 program an effective incentive to increase the number of states that adopt 0.08% BAC laws? How are

the Section 157 and 411 programs affecting seat belt use rates? What is NHTSA doing to implement the provision of the Section 157 program that allows innovative grants to increase seat belt use rates? How useful are the various grant programs in reducing traffic safety challenges? For additional information, see CRS Report 98-890, *Traffic Safety Provisions in the Transportation Equity Act for the 21st Century*. (CRS contact: Paul Rothberg.)

Oversight of the Environmental Provisions of TEA21

In the second session of the 106th Congress, the use of federal highway trust fund revenues to address the environmental impacts of surface transportation may receive attention during oversight of the implementation of TEA21. The law set aside roughly \$12.5 billion from FY1998 to FY2003 for several environmental programs. The majority of this funding is reserved for air quality projects to assist states in complying with federal air quality standards. The law also increased funding for environmentally related transportation enhancements and established new programs to assist transit systems in purchasing low-emission buses, conduct environmental research, encourage environmental technologies for motor vehicles, and support projects that integrate transportation efficiency, community preservation, and environmental protection. Other provisions addressed the operation of low-emission vehicles in high occupancy vehicle lanes, extended tax benefits for alcohol-based fuels, and required the environmental review process for highway projects to be streamlined. Congressional oversight of the implementation of these programs could focus on the types of projects selected for funding and their effectiveness in addressing environmental problems stemming from highway travel. (CRS Report 98-646 ENR, *Transportation Equity Act for the 21st Century (P.L. 105-178): An Overview of Environmental Protection Provisions*, describes each of the above programs and indicates the amount of funding authorized for them.)

Thus far, oversight of TEA21's environmental provisions in the 106th Congress has focused on requirements to streamline the environmental review process for highway projects. In the first session, the Senate Environment and Public Works Committee's Transportation and Infrastructure Subcommittee held hearings on April 29, 1999, and June 9, 1999, to oversee the implementation of the streamlining provisions. The House Transportation and Infrastructure Committee's Ground Transportation Subcommittee has also held two oversight hearings to examine the issue, one on July 27, 1999 and the other on March 8, 2000. FHWA and the Federal Transit Administration jointly plan to issue revised regulations and guidance on the environmental review process for highway projects, based on comments received in response to an options paper released last year, available online at [<http://www.fhwa.dot.gov/environment/tea21imp.htm>]. In the meantime, DOT and six other federal agencies signed a memorandum of understanding in July 1999 which outlines several objectives intended to improve the efficiency of the environmental review process while continuing to protect environmental quality. The memorandum is available online at [<http://www.fhwa.dot.gov/environment/nmou4.htm>]. Subsequently, DOT released a draft action plan to provide implementation guidelines for each agency that signed the memorandum, available online at [http://www.fhwa.dot.gov/environment/aprs2_00.htm]. (CRS contact: David Bearden.)

Federal Motor Carrier Safety Program — Creation of a New DOT Modal Administration

Various congressional committees conducted hearings during the first session of the 106th Congress on the truck and bus safety program administered by the DOT. Two of the key issues that were discussed include: How effectively was the current program being conducted? Was a new administrative structure needed to improve its implementation? During the hearings, the General Accounting Office (GAO), National Transportation Safety Board (NTSB), DOT's Inspector General (IG), and others identified numerous concerns regarding the effectiveness and efficiency of the commercial vehicle safety program previously administered by the Federal Highway Administration within the DOT. Critics cited a reduced number of enforcement actions and compliance audits conducted by federal personnel, a growing backlog of unfinished regulatory measures, and inadequate safety data and information systems. DOT maintained that FHWA implemented a program targeted at high-risk carriers, which improved commercial vehicle safety, and that FHWA should continue stewardship of its safety responsibilities.

The FY2000 DOT Appropriations Act (P.L. 106-69) prohibits the use of any funds to carry out certain motor carrier safety functions and operations by the FHWA, and would transfer those funds to another DOT entity other than the FHWA to carry out those activities. On October 9, 1999, FHWA's motor carrier safety functions and personnel were transferred to a newly established entity, the Office of Motor Carrier Safety, within the DOT.

The "Motor Carrier Safety Improvement Act of 1999" was signed by the President on December 9, 1999 (P.L. 106-159). The Act seeks to strengthen the federal motor carrier safety program, and establishes a Federal Motor Carrier Safety Administration (FMCSA) to assume the responsibilities previously conducted by the interim Office of Motor Carrier Safety. For more information, see CRS Report RS20336, *Federal Truck and Bus Safety Programs—Issues and Legislative Options*. (CRS contact: Paul Rothberg.)

Surface Transportation Board Reauthorization

The most prominent issue regarding reauthorization of the Surface Transportation Board (Board or STB) may be use of its authority to limit competition among railroads. Board authorization expired September 30, 1998, and funding ends September 30, 2000. Many rail freight customers want greater rail-to-rail competition by requiring a railroad, at the request of a customer, to transfer a shipment to a competing railroad for part of the distance rather than hauling the commodity the entire distance itself. Federal law and STB regulation generally allow a railroad to haul a commodity the entire distance from origin to destination without offering the customer the option of having a competing railroad transport the commodity part of the distance. A bill to reauthorize the Board, S. 98, does not address rail-to-rail competition issues. Other bills are S. 621, S. 747, S. 1590, H.R. 2784, H.R. 3163, and H.R. 3446. These bills contain a wide range of provisions related to competition among railroads and other rail-related issues. (CRS contact: Steve Thompson.)

Railroad Safety Reauthorization

The Federal Railroad Administration (FRA) is the primary federal agency that promotes and regulates railroad safety. Regulatory development, safety assessments, and enforcement form the core of FRA's safety program. The combined impacts of FRA's programs, billions of dollars of investment in railroad infrastructure, as well as many other industry and labor initiatives have yielded improvements in the long-term safety record of the railroad industry, especially during the last 20 years. Nevertheless, a tragic and well-publicized crash typically occurs every few years that heightens interest in railroad safety. Further improvements in both rail safety and FRA's safety regulations and programs are possible, but each approach has its own potential benefits and costs.

The last railroad safety reauthorization statute was enacted in 1994 and its funding authority expired at the end of FY1998. FRA's safety programs continue using the authorities specified in existing railroad safety law and funds that are appropriated annually. The reauthorization process provides an opportunity to review federal policies and programs, to consider the current state of railroad safety, and to explore various options intended to further improve the long-term safety record. Forging new legislation in the railroad safety arena is difficult, especially when a balance is sought among the interests of public safety, railroad labor, and management. For more information, see CRS Report RL30026, *Railroad Safety Reauthorization: Analysis of the Federal Railroad Administration's Program, Safety Statistics, and Policy Options*. (CRS contact: Paul Rothberg.)

Maritime

Harbor Maintenance User Fees

User fees for deepening harbor channels for ships and for maintaining current depths by dredging were established in 1986. The fees cover the federal contribution to the cost of such services. Prior to 1986, the federal contribution came from the general fund of the U.S. Treasury. On March 31, 1998, the U.S. Supreme Court declared the portion of the fee levied on exports to be unconstitutional, and such collections were discontinued. User fees on imports continue. Some countries oppose the fee on imports on the basis that it is unfair to international trade. On August 24, 1998, the Clinton Administration proposed a new user fee system. The fee struck down by the Court was based on the value of cargo exported; the new fee would be based on the cargo-carrying capacity of the vessel, the type of ship, and the number of times the ship enters or leaves a port. The proposal is opposed by most shipping groups, including representatives of ports, because they prefer using the general fund of the U.S. Treasury rather than levying a user fee. (CRS contact: Steve Thompson.)

The Domestic Cruise Ship Industry

Federal law prevents foreign cruise ships from providing U.S. domestic passenger transportation services (i.e., service between two U.S. ports without an intermediate stop at a foreign port). Ships that provide domestic passenger service must be built in the United States. Some have suggested that more service and better prices would be offered by domestic carriers if they were faced with foreign competition. Similarly, some have suggested that lower-cost cruise ships would be available to carriers engaged in providing U.S. domestic oceans passenger service if ships could be obtained from sources outside the United States.

Others take the position that most countries protect such services for domestic carriers and shipbuilders, and that the practice promotes national defense readiness by assuring a domestic market for passenger carriers and shipbuilding. S. 1510 would allow cruise ship operations in ships not built in the United States provided the carrier commits to building a ship in U.S. shipyards for up to 3 years. **(CRS contact: Steve Thompson.)**

Reauthorizing the Coast Guard

The 106th Congress, 2nd Session may continue to consider legislation to reauthorize U.S. Coast Guard programs. Congress generally authorizes for 2-year periods, and appropriates annually in the Department of Transportation bill. The House Transportation and Infrastructure Committee, on March 11, 1999, reported the Coast Guard Authorization Act of 1999, H.R. 820 (H.Rept. 106-51), authorizing Coast Guard programs for FY2000 and FY2001, at \$4.6 billion and \$4.8 billion, respectively. The full House passed the bill on March 17, 1999, after adopting four amendments. (See 42 *Cong. Rec.* H1341-42, H1370-82 for the debate.) In the Senate, similar legislation, S. 1089, was introduced May 20, 1999 and referred to the Senate Committee on Commerce, Science, and Transportation. S.1089 would authorize Coast Guard programs at \$3.4 billion annually for FY2000 and FY2001; it does not specify the amount for retirement pay unlike the House bill, which allocates \$700 million.

The Coast Guard is a multi-function agency with a mission to protect people, the environment and U.S. economic interests, including maritime transportation, in coastal and oceans waters. Two major issues confront the Coast Guard: replacing aging vessels and addressing expanded operational responsibilities. The Coast Guard launched a major acquisition program called the Integrated Deepwater System, which would require an estimated \$9.6 billion to fund an acquisition program over 20 years beginning in FY2002. FY2000 and FY2001 authorizations for the program reflect only planning funds. CRS Report 98-830, *Coast Guard Integrated Deepwater System: Background and Issues for Congress*, discusses issues associated with the deepwater program. For further discussion, see CRS Report RS20117, *Coast Guard FY2000 and FY2001 Authorization Issues*. The FY2000 DOT appropriations act (P.L. 106-69) provided just over \$4.0 billion for the Coast Guard, slightly less than the \$4.1 billion requested. For FY2001, the President seeks \$4.5 billion. **(CRS contact: Martin Lee.)**

Antitrust Exemption for Ocean Carriers

The issue of whether ocean carriers should remain exempt from U.S. antitrust laws will likely be the subject of hearings during 2000. Representative Henry Hyde, the Chairman of the House Judiciary Committee, announced late in 1999 that the committee will hold hearings during the 2nd Session. The exemption allows ocean carriers to set rates in conferences or agree on rates under discussion agreements. Repeal of the exemption was a goal of some groups representing shippers (i.e., customers of ocean carriers) prior to enactment of the Ocean Shipping Reform Act of 1998 that took effect on May 1, 1999. However, as part of the compromise among interested parties that led to the 1998 Act, shipper interests agreed to allow the antitrust exemption to continue for the foreseeable future. The largest group representing the interests of shippers, the National Industrial Transportation League, takes the position that not enough time has elapsed to evaluate whether the Ocean Shipping Reform Act of 1998 is promoting the competition among ocean carriers that was intended. Some Members of Congress, including Representative Hyde, take the position that the justification

for antitrust exemption (i.e., the protection of American-owned containership carriers) disappeared recently when the last American-owned, containership carrier sold out to a foreign firm. Some oppose the exemption on the rationale that the antitrust exemption now almost exclusively benefits foreign-owned carriers at the expense of American shippers and consumers. **(CRS contact: Steve Thompson.)**

Other

National Transportation Safety Board (NTSB) Reauthorization

The NTSB was created in 1966 to investigate transportation accidents, determine their causes, and offer recommendations to prevent subsequent occurrences. It receives funding as a “related agency” within the DOT, but has been independent since 1974. While the Board and has no enforcement authority, its findings and recommendations often result in legislative and/or regulatory responses from agencies or Congress.

Recently, the NTSB has been characterized as an agency whose financial and human resources have been overloaded by rapidly growing responsibilities. The Board’s problems were reviewed in a 1999 study by the Rand Corporation entitled, *Safety in the Skies: Personnel and Parties in NTSB Aviation Accident Investigations*, which is available on the NTSB web site [<http://www.nts.gov/>]. For the past 3 years, Board funding has remained relatively constant at about \$57 million (salaries and expenses) annually, although it has received supplemental funding to cover major accident investigations. The FY2000 emergency supplemental appropriations bill (H.R. 3908) includes \$25 million for NTSB for emergency expenses resulting from the Egypt Air and Alaska Air crash investigations. For FY2001, the Administration has requested an appropriation of \$62.9 million (salaries and expenses). The House Appropriations Subcommittee on Transportation (tables provided by the House Committee on Appropriations) has recommended a similar funding level for FY2001.

The current authorization for the NTSB expired on October 1, 1999. Legislation (H.R. 2910) to reauthorize the Board for 3 years passed the House on September 30, 1999, and is pending further action by the Senate’s Committee on Commerce, Science, and Transportation. In addition to increased funding, the bill provides the NTSB with primary responsibility for accident scene investigations and guidance on the use of information obtained from cockpit and/or vehicle recorders. The Senate’s version, S. 2412, was introduced April 12, 2000 and was also referred to the Senate Committee on Commerce, Science, and Transportation. **(CRS contact: Duane Thompson.)**

LEGISLATION

P.L. 106-69, H.R. 2084

Department of Transportation and Related Agencies Appropriations Act, 2000. Making appropriations for DOT and related agencies for the fiscal year ending September 30, 2000, and for other purposes. Reported June 9, 1999, H.Rept. 106-180. Passed House June 23, 1999. Passed Senate September 16, 1999, after substituting the text of S. 1143, as amended. Conference report filed September 29 (H.Rept. 106-355) and printed in the *Congressional Record* of September 30, 1999 (H9077). Approved by House October 1, 1999 (304-91). Approved by Senate October 4, 1999 (88-3). Signed into law October 9, 1999.

P.L. 106-181, H.R. 1000

Wendell H. Ford Aviation Investment and Reform Act for the 21st Century Act (FAIR21, or AIR21). To reauthorize programs of the Federal Aviation Administration, and for other purposes. Reported May 28, 1999, H.Rept. 106-167, part 1. Passed House, amended, June 15, 1999. Passed Senate October 5, 1999, after substituting the text of S. 82 as amended. Conference report filed March 8, 2000: H.Rept. 106-513. Passed Senate March 8, 2000; passed House March 15. Signed into law April 5, 2000.

H.R. 2679 (Shuster)

Motor Carrier Safety Act of 1999. To establish the National Motor Carrier Administration in DOT. Reported September 24, 1999 (H.Rept. 106-333). Passed House October 14, 1999.

H.R.3908 (Young)

Making emergency supplemental appropriations for the fiscal year ending September 30, 2000. Passed House March 29, 2000.

FOR ADDITIONAL READING

U.S. General Accounting Office. Major Management Challenges and Program Risks: Department of Transportation. January 1999. GAO/T-RCED/AIMD-99-94 [<http://www.gao.gov/pas/cg99013.pdf>]

U.S. Department of Transportation. Top 12 Management Issues: Department of Transportation. Office of Inspector General. Dec. 22, 1999. Report Number CE-2000-026. [<http://www.oig.dot.gov/audits/ce2000026.html>]

U.S. Department of Transportation. Key Safety, Modernization and Financial Issues Facing FAA. Office of Inspector General. April 11, 2000. Report Number AV-2000-072. [<http://www.oig.dot.gov/audits/av2000072.html>]